



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF APRIL 24, 2014**

**CALL TO ORDER:** Chairperson Pentaleri called the meeting to order at 7:00 p.m.

**PRESENT:** Chairperson Pentaleri, Commissioners Bonaccorsi, Dorsey, Jones, Karipineni, Reed

**ABSENT:** Commissioner Leung

**STAFF PRESENT:** Wayne Morris, Principal Planner  
Kristie Wheeler, Planning Manager  
Prasanna Rasiah, Deputy City Attorney  
Steve Kowalski, Associate Planner  
Bill Roth, Associate Planner  
Alice Malotte, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Napoleon Batalao, Video Technician

**APPROVAL OF MINUTES:** Regular Meeting of March 27, 2014, approved as submitted.

**DISCLOSURES:** **Commissioner Reed** drove by the site of Item 7; held a conversation with Irvington small business owner Debbie Rue and held a text conversation with Dirk Lorenz regarding Item 7; and spoke with Wilson Hu, applicant for Item 3.  
**Commissioner Dorsey** drove by the sites of Items 2, 6, and 7; spoke and texted with Nina Moore, Robson Homes; spoke with Superintendent Morris concerning all of the agenda items; and held an email conversation with Mr. Hu, applicant for Item 3.  
**Vice Chairperson Jones** met with Wilson Hu regarding Item 3; held a brief telephone conversation with Mr. Robson regarding Item 1; and visited the sites of Items 6 and 7.  
**Commissioner Karipineni** met with the applicant and drove by the site of Item 1; visited the sites of Items 6 and 7; and drove by the sites of Items 3 and 4.  
**Commissioner Bonaccorsi** visually inspected the site of Item 1 and briefly spoke with applicant Mr. Robson; regarding Item 3, spoke with Adam Tennant and Wilson Hu of WestGate Ventures

and visually inspected the site; visually inspected the site of Item 6 and had text contacts with Dirk Lorenz.

**Chairperson Pentaleri** met with applicants for Items 1, 3; and regarding Item 7, met with applicant (several months ago) and held conversations with several members of the Irvington Business Association (IBA).

## CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBERS 2, 4, 5, AND 6.

IT WAS MOVED (REED/DORSEY??/BONACCORSI??) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 2, 4, 5 AND 6.

- Item 2. **SHANNON TOWNHOMES - 38861 and 38873 Mission Boulevard - (PLN2013-00188)** - To consider a Rezoning from R-G-29, Garden Apartment Residence District to Preliminary and Precise Planned District P-2013-188, Vesting Tentative Tract Map No. 8186 and a Private Street to allow the development of a 25-unit multi-family residential project located in the Central Community Plan Area, and to consider a Mitigated Negative Declaration prepared for the project in accordance with the requirements of the California Environmental Quality Act (CEQA).

CONTINUE TO MAY 8, 2014, AND RENOTICE.

- Item 4. **VALERO GAS STATION - 46350 to 46494 Mission Boulevard - (PLN2014-00132)** - To consider a Conditional Use Permit Amendment to allow the replacement of an existing gasoline service station, convenience store and retail building with a new gasoline service station, convenience store, car wash and restaurant, and to consider a categorical exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15302, Replacement or Reconstruction.

FIND THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15302, REPLACEMENT OR RECONSTRUCTION;

AND

FIND THAT THE AMENDMENT (PLN2014-00132) TO CONDITIONAL USE PERMIT U-66-41 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, AND POLICIES SET FORTH IN THE GENERAL PLAN LAND USE CHAPTER ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE THE AMENDMENT (PLN2014-00132) TO CONDITIONAL USE PERMIT U-66-41, AS SHOWN ON EXHIBIT “A,” SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT “B.”

- Item 5. **DECOTO ROAD GENERAL PLAN CONFORMITY FINDING – 4178, 4194 and 4268 Decoto Road - (PLN2014-00101)** - To consider a General Plan Conformity Finding for the sale of three City-owned properties located in the Centerville Community Plan Area, and find that this action is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378, in that it is not a project as defined by CEQA.

FOUND THAT THE GENERAL PLAN CONFORMITY FINDING IS NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15378, IN THAT IT IS NOT A PROJECT AS DEFINED BY CEQA;

AND

FOUND THAT PLN2014-00263 FOR THE PROPOSED DISPOSITION OF PROPERTY LOCATED AT 4178, 4194 AND 4268 DECOTO ROAD AS SHOWN ON EXHIBIT “A” IS IN CONFORMANCE WITH THE GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT.

- Item 6. **SCRIBBLES MONTESSORI SCHOOL CONDITIONAL USE PERMIT - 38239 Fremont Boulevard - (PLN2013-00021)** - To consider a Conditional Use Permit to allow a private school use for up to 100 students ages four through 12 years old in two new classroom buildings totaling 6,100 square feet located at 38239 Fremont Boulevard in the Centerville Community Plan Area, and to consider a Mitigated Negative Declaration prepared for the proposed project pursuant to the requirements of the California Environmental Quality Act (CEQA).

Staff requests that the following correction be included in the Staff Report:

Recommended Action: ~~Approve based on findings and subject to conditions.~~  
Continue to a date uncertain and to renote.

A discussion ensued because a speaker’s card had been submitted by **Sy Najjar**. The Applicant was not in attendance and would not speak. **Mr. Najjar** declined to speak at this time.

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Pentaleri, Reed  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 – Leung  
RECUSE: 0

## PUBLIC/ORAL COMMUNICATIONS

### PUBLIC HEARING ITEMS

- Item 1. **BRINGHURST PLANNED DISTRICT - 42425 Mission Boulevard - (PLN2013-00103)** - To consider a Rezoning from R-1-10, Single-Family Residence District to Preliminary and Precise Planned District P-2013-103, Vesting Tentative Tract Map No. 8158, Private Street and Preliminary Grading Plan to allow the development of 24 single-family homes, including the relocation and alteration of a Potential Register Resource (Quaresma House) located in the Mission San Jose Community Plan Area, and to consider a Mitigated Negative Declaration prepared for the project in accordance with the requirements of the California Environmental Quality Act (CEQA).

**Chairperson Pentaleri** opened the Public Hearing.

**Chris Cavette**, Fremont resident, stated that the Fremont Small Lot Guidelines required that a minimum of 15 percent of the houses must be one-story, which would help to break up the massing of the larger houses that were placed close together on small lots and also provided “for seniors, the disabled and those families who prefer or desire single-story homes.” He understood that this particular requirement was no longer the case. He believed this was a good requirement and should be included in all small lot developments, and be required in this one.

**Jake Lavin**, Robson Homes, replied that this was a project where an historic home would be restored and set on a 10,000 square foot lot in a neighborhood of smaller lots. It would include a public trail and a very extensive creek restoration program that would provide a trail connection between Mission Boulevard and Central Park. A very important, scenic street, Mission Boulevard, would be beautified. The historic home, the one single-story home, would be located at the front of the project. Single-story massing elements would be provided on all of the facades. The single-story home would be on a large lot, which consisted of over 15 percent of the property frontage and made it somewhat consistent with the guideline.

Plans would be available that had single-story living within them, which would include downstairs bedrooms, bathrooms and kitchens.

**Commissioner Bonaccorsi** had noticed a dirt road during his visit to the site that exited the Quaresma home onto Mission Boulevard. This was during the commute and he had waited one to one and one-half minutes before he was able to enter the flow of traffic. What would the queuing mechanism be for these new 24 units?

**Mr. Lavin** agreed that it would be inconvenient at times. However, the queuing would occur on the private street, which would have a right-in and right-out movement and would be the least disruptive to the overall traffic flow. After waiting for one and one-half minutes to join the flow of traffic, one would then wait 30

seconds to enter the highway. The residents' children would be able to walk to school, which was a great benefit and, most important, there would be no safety concerns.

**Commissioner Dorsey** asked how many of the five model homes would have bedrooms on the first floor.

**Mr. Lavin** answered that one model had the bedroom on the first floor, along with all models offering a flex space.

**Commissioner Dorsey** asked if a model that offered the flex space could have a first-floor bedroom.

**Mr. Lavin** said that kind of change would have to be processed through the City.

**Chairperson Pentaleri** closed the Public Hearing.

**Commissioner Bonaccorsi** asked staff's opinion concerning Mr. Cavette's comment.

**Principal Planner Morris** stated that the 15 percent had been a code requirement and now it was a guideline.

**Chairperson Pentaleri** believed that a great deal of creativity and sensitivity had gone into this design and the Planned District was meant to allow deviation from the guidelines on behalf of superior design considerations.

IT WAS MOVED (REED/DORSEY) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AS SHOWN IN EXHIBIT “A”, AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THE MITIGATED NEGATIVE DECLARATION REFLECTS THE INDEPENDENT JUDGMENT AND ANALYSIS OF THE CITY OF FREMONT;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, OBJECTIVES AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE, MOBILITY, SAFETY, AND PARKS AND RECREATION ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THE PRELIMINARY AND PRECISE PLANS AS DEPICTED IN EXHIBIT “C,” (PRECISE SITE PLAN,

ARCHITECTURAL ELEVATIONS AND FLOOR PLANS, AND LANDSCAPE PLANS), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THAT VESTING TENTATIVE TRACT MAP NO. 8158, PRIVATE STREET, AND PRELIMINARY GRADING PLAN, AS SHOWN IN EXHIBIT "D," ARE CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE CITY OF FREMONT'S GENERAL PLAN. GOVERNMENT CODE SECTION 66474 AND THE FREMONT MUNICIPAL CODE PROVIDE THAT A TENTATIVE MAP APPLICATION MUST BE DENIED IF CERTAIN SPECIFIED FINDINGS ARE MADE. NONE OF THOSE FINDINGS CAN BE MADE IN THIS INSTANCE AS SET FORTH IN THIS REPORT AND EXHIBIT "E;"

AND

RECOMMENDED THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE APPROVING A REZONING OF THE ENTIRE PROJECT SITE FROM R-1-10, SINGLE-FAMILY RESIDENCE DISTRICT TO PLANNED DISTRICT P-2013-103, AS DEPICTED ON ENCLOSURE EXHIBIT "B" (REZONING MAP), APPROVING THE PRELIMINARY AND PRECISE PLANS AS SHOWN ON ENCLOSURE EXHIBIT "C," (PRECISE SITE PLAN, ARCHITECTURAL ELEVATIONS AND FLOOR PLANS, AND LANDSCAPE PLANS), AND APPROVING THE MODIFICATIONS AND RELATED PROVISIONS SET FORTH IN EXHIBIT "E," BASED UPON THE FINDINGS CONTAINED IN THIS REPORT AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "F;"

AND

RECOMMENDED THAT THE CITY COUNCIL APPROVE VESTING TENTATIVE TRACT MAP NO. 8158, PRIVATE STREET, AND PRELIMINARY GRADING PLAN, AS SHOWN IN EXHIBIT "D," BASED UPON THE FINDINGS CONTAINED IN THIS REPORT AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "F;"

AND

RECOMMENDED THAT THE CITY COUNCIL USE ITS DISCRETION PURSUANT TO THE GENERAL PLAN TO ALLOW A 65DB(A) EXTERIOR NOISE LEVEL FOR THE PROJECT SITE;

AND

RECOMMENDED APPROVAL OF THE PROPOSED REMOVAL AND MITIGATION FOR 87 PROTECTED TREES PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE, BASED UPON FINDINGS AND CONDITIONS IN ENCLOSURE EXHIBIT "E;"

AND

DIRECTED STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCE.

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Pentaleri, Reed  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 – Leung  
RECUSE: 0

- Item 3. **FREMONT/DECOTO TOWNHOMES - 34826 and 34840 Fremont Boulevard and 3893 Decoto Road - (PLN2014-00099)** - To consider a Rezoning of a 2.03-acre site from Preliminary Planned District P-2007-126 and City-initiated P District to Preliminary and Precise Planned District P-2014-99, Tentative Tract Map No. 8162 and a Private Street to allow the construction of a 38-unit multi-family residential development and the preservation of an existing Potential Register Resource as part of the development, and to consider a Mitigated Negative Declaration prepared for the project in accordance with the requirements of the California Environmental Quality Act (CEQA).

**NOTES/CORRECTIONS:**

Staff requests that the following correction be included in the Conditions of Approval:

Conditions of Approval: The following recommended condition of approval is hereby added to Exhibit “E” as condition #43:

*The applicant shall work with the neighboring property owners on the design of the building on Lot 8. The intended design shall have frontal massing similar to a two-story building with a reduced third story set back toward the garage (rear) side of the structure. The building will have a first and second floor minimum 10-foot building setback from the property line shared with the adjacent properties located at 35045 and 35065 Armour Way. The applicant shall attempt to eliminate windows on the third story facing this property line. The final design shall be to the satisfaction of the Planning Manager.*

**Associate Planner Kowalski** explained that this project would include a 38-unit townhouse-style condominium development with a private street entitlement on three parcels. Two of the three properties currently contained single-family dwellings while the third parcel was vacant. The home at 34840 Fremont Boulevard, a potential register historical resource known as the “Machado House” and part of a Portuguese family farm built in the early 20<sup>th</sup> century, would be relocated on its own new lot. The other existing dwelling at 3893 Decoto Road would be demolished. A new private street would be constructed leading from Fremont Boulevard into the property off of which five private terraces would extend and provide access to each unit. Units would be of five different floor plans and range in size from 1,232 to 2,142 square

feet with two-car garages. The Machado House would also have a new driveway and parking area located off the main private street.

On April 3<sup>rd</sup> the Historical Architectural Review Board (HARB) approved the project and requested that the applicant explore ways to minimize the impact of the height differential between the three-story condominium building at the front of the development and the single-story Machado House through the planting of additional landscaping between the structures. Exhibit D addressed HARB's concern.

Staff also acknowledged the concerns expressed by the two neighbors, above, and recommended adding Condition 43 to Exhibit E.

**Commissioner Bonaccorsi** asked about the historic value of the Machado House.

**Associate Planner Kowalski** stated that an architectural historian had found that the Machado House had been part of a family farmstead historically located at the corner of Fremont Boulevard and Decoto Road. Only two cottages from this family farmstead had survived. The other cottage was located around the corner behind Fremont Bank on Decoto Road. The Machado House was a good surviving example of a Queen Anne Cottage, which was the reason, along with its association with the historical Portuguese family farmstead, that it had been deemed a potential historic resource.

**Chairperson Pentaleri** opened the Public Hearing.

**Wilson Hu**, Applicant with WestGate Ventures, said that, typically, when a proposal for an undeveloped site was made, the neighboring property owners frequently voiced their opinions regarding what they did not want to see and what they would like to see. When this project was started, they began their neighborhood outreach in August of last year to the property owners adjacent to the northern property line. At that time, he had received very little response. In February, 2014, a neighborhood meeting was held to introduce the project. At that time, the attendees were relatively supportive of the efforts to limit the potential impacts on their properties and their privacy. Less than a week ago, he learned that two of the adjacent property owners were uncomfortable with the proposal and preferred to see single-family, detached homes abutting their property line. He met with them and walked them through the proposal and explained the history of the site and its General Plan designation. They seemed to understand the planned larger setbacks and the fairly large trees that would be planted for screening. He had come to an agreement with one of neighbors who wanted only two-story homes, which could not be accommodated, at this point. However, one of the buildings had been redesigned to have the frontal appearance and the massing of a two-story home in response to this neighbor's concerns.



**Chairperson Pentaleri** asked the following questions:

- Had there been a few iterations while working with staff prior to his first outreach to the neighborhood? Were some of those early iterations on behalf of consideration of the adjacent property owners?  
*Yes. At that time, honestly, those property owners had not responded to him.*
- What about when working with staff?  
*One of the key considerations had always been to maintain as much separation as possible between this project and the neighbors, which he had been certain would be important to them.*
- The current setbacks were not just the minimum allowed?  
*Yes, as stated in the staff report, they generally met or exceeded the minimum.*

**Chris Cavette**, Fremont resident, stated that he had asked that this item be removed from the Consent Calendar, because he and his wife strongly believed that all residential developments should be open for discussion as Public Hearing items rather than given a blanket approval as part of the Consent Calendar. The public deserved to hear and see presentations from the developers, the staff and the Commission even if the developments were not deemed controversial and even if they had been reviewed by HARB. The Commissioners should also engage in an open discussion among themselves and evaluate the pros and cons so that they might better understand the viewpoints of other Commission Members and obtain valuable feedback from staff. He generally supported this proposal. However, the interior side setbacks would be five feet rather than the ten feet required for R-3 developments; the common open space would be only 1,500 square feet rather than a minimum 2,150 square feet required for an R-3 development of this size; and the six- by ten-foot balconies would be hardly sufficient compensation for such a significant reduction in open space. He closed with requesting that no residential developments be put on the Consent Calendar.

**Peter Ni**, Armour Way, stated that he was an 18-year City resident and lived next to this project. Last year he had spoken with Mr. Hu and had explained that he was very strongly against having a three-story building directly adjacent to his property. He had drafted a letter to Mr. Hu, but because his English was not as perfect as he liked, he asked his neighbor to correct it. Because of three neighborhood robberies, two of which were experienced by this neighbor, the letter had fallen through the cracks. This was why Mr. Hu had not received any feedback in a timely manner. Then during the February meeting, the speaker happened to be on a lengthy cruise. When he returned, he emailed the City and Mr. Hu, and Mr. Hu came to his door and he listened to all of the neighbors' concerns. Security and privacy were major concerns. **Associate Planner Kowalski** had been very helpful. The third-floor setback with no windows was acceptable. However, his neighbor Kwok Shum was still strongly against it. Mr. Hu was also willing to build an eight-foot high wall between the properties.

**Chairperson Pentaleri** asked if the speaker appreciated Mr. Hu's outreach and the compromises he has offered. Was the proposed condition for Mr. Hu to continue to work with his adjacent neighbor a reasonable condition?

**Mr. Ni** stated that he was correct. This is the third or fourth time that someone had come in with a project for this property. He understood that new projects could not be fought forever, but they wanted something that would be acceptable for their backyards.

**Vice Chairperson Jones** asked if the speaker would rather have a 23 to 25-foot setback rather than the 10-foot setback that was currently being proposed.

**Mr. Ni** replied that, certainly, he would prefer to have a 25-foot setback with a two-story building next to him, but he understood that he could not have everything and a give and take was necessary.

**Kwok Shum**, Armour Way resident, stated that three other neighbors also wished to speak. His major concerns were privacy, safety and security. He and his family were not comfortable with having a three-story building next to their yard, which would amount to a 30-foot wall. They preferred a building that had the same maximum height as their house was. He understood from Mr. Hu that the options were either a 28-foot setback with a three-story building or a ten-foot setback with a two-story building. He noted that the previous speaker, Mr. Ni, and another speaker, Pradeep Dasarathan, were the property owners that were actually next to the proposed development.

The Commissioners asked the speaker the following questions:

- **Chairperson Pentaleri** asked if he had engaged with the Applicant at the first iteration.  
*Yes. When Peter sent him the letter in August, he added his concerns. He had inquired about CEQA mitigations and second most important was that the height of the building would be no taller than his house.*
- Was this the letter that was lost?  
*Yes. The letter was then given to Pradeep, whose house had been robbed twice.*
- What about the February meeting?  
*He was also on a cruise in February. However, once he returned in March, he met Mr. Hu for the first time during another meeting.*
- **Commissioner Dorsey** stated that she had counted seven homes on her map that were near the project. How many people out of those seven adjacent were in attendance at this time?  
*He was on one side and only four houses were adjacent.*
- She agreed that there were four homes, but there were three more on the other side. Were all four residents on Armour Way here?  
*Three out of four were here.*

- **Vice Chairperson Jones** asked how many stories his home was.  
*His home was a two-story, single-family house.*
- Did he know what the height of his home was compared to the proposed height of the new building?  
*The site (the ground) of his home was two-feet higher than the proposed development site. Assuming a ten-foot height for each story, the proposed height could be about 40 feet.*

**Pradeep Dasarathan**, Armour Way resident, stated that he was an adjacent neighbor. It was his home that had experienced an armed robbery last year with people who had come from the back and broke the door. His main concern was that his bedrooms and bathrooms were at the rear of their property line and facing the front entry of the proposed building. So having a three-story building facing them was very uncomfortable. Mr. Hu had agreed to install a concrete wall, eight to ten-feet high, to provide better security than the originally planned wooden fence.

The Commissioners asked the following:

- **Vice Chairperson Jones** asked if the robbers had come from the back.  
*Mr. Dasarathan stated that they had come from the back the first time he was robbed and they had come from the front the second time.*
- Having homes at the rear of his property could possibly improve his security, rather than just having the vacant lot behind him.  
*He believed that people could drive up, park their cars and jump in and break through his door.*
- **Chairperson Pentaleri** did not understand how his security would be degraded by the construction of new homes behind his property.  
*It would be easier for someone to drive in close to his property and climb over a six-foot fence than if they had to cross an empty lot.*
- So, had his concern been mitigated?  
*Kind of. An eight or ten foot concrete wall should be okay.*
- Had he stated, earlier, that he was comfortable with the reasonable compromises that the Applicant had proposed, such as, reducing the look of the height of the building by stepping back the upper story?  
*He understood that was only available for the building next to the two previous speakers. The building next to his home would have the previously designed building.*
- Which was higher?  
*It would be acceptable with the ten-foot wall. He was concerned about windows and his privacy.*
- Was his address either 35045 or 35065?  
*No. He was another neighbor at 35025.*
- Was he opposed to this project as it was now being presented?  
*No. His concern was windows and the ability for someone to peep into his private space.*
- **Commissioner Bonaccorsi** asked what his address was.  
*35025 Armour Way.*

**Kunthea Ruaboro**, Armour Court resident, stated that this project did not directly affect her property. However, she was a community leader and block captain for the Neighborhood Crime Watch and the recent robberies had affected everyone. She was also concerned about security. Mr. Hu had been great at reaching out to the project's adjacent neighbors, but not to the rest of the community. She believed that a ten-foot brick or concrete wall that could not be climbed over would help to alleviate the concern in the community and allow their children to play safely.

**Commissioner Reed** thanked her for her willingness to help to provide security for his community. Did she feel this development would help or hinder security in the community? Presently, a vacant lot was there. This development would bring more eyes on the community and might provide more security.

It was a give and take. She did not know until it happened. She had attended the community meeting at Warwick School and she and her neighbors had met with Mr. Hu, later. Before that, a brick wall had not been part of the plans. Without it, she still felt insecure. There would be 38 new townhomes and 38 new families and another private driveway coming in and teenagers jumping the fence as had happened in other areas of the neighborhood, for example, on the Warwick School property. She lived right on Decoto Road and had a concrete wall that was ten or twelve feet high. She had never seen anyone come over it. It was excellent. She had planted rose bushes all along it. If someone came over the wall, she would know it by all the screaming.

**Commissioner Reed** liked the idea of the ten-foot wall, along with the rose bushes.

**Frank Wu**, Armour Court homeowner, stated that he had lived there since 1996 and he was in attendance to support his neighbors. Their concerns were his concerns. As he had driven to this meeting, he had not seen a single structure that was taller than two stories, residential or commercial near the corner of Fremont Boulevard and Decoto Road. He urged the Commission not to allow any new building to be more than two stories tall.

**Mr. Hu** stated that he had not presented the whole project, because the staff report had done a thorough job. However, he did need to address the neighbors' concerns. The setbacks were much larger than was typically seen in such developments. The building would jog in and out, which would allow up to 28 feet to the face of the building and allow the planting of large trees in that area. Redwood trees had originally, but might not be acceptable due to litter in everyone's yard. That would be decided upon with the neighbors. In terms of massing and privacy issues, one of the neighbors had brought up the potential of a two-story home with a ten-foot setback. That was not an alternative that he had discussed for this project. The neighbors had brought up the homes and setbacks in Rosewood, a development he had worked on many years ago. He had explained to the neighbors that even with two-story homes, some pretty big privacy impacts occurred on the surrounding residents. Those homes had setbacks between ten and twelve feet, even though they were single-family homes. Second story windows would also affect privacy, but it

would be better to have those windows further away with large, screening trees. They were still willing to work with the neighbors to continue to address their concerns. They had agreed to build the wall, but the neighbors needed to agree on its height.

The Commissioners asked the following of the speaker:

- **Commissioner Bonaccorsi** asked if he would agree to an additional condition that would address the concerns expressed by Pradeep, the resident at 35025 Armour Way.  
*The condition on the Gold Sheet specifically addressed the five-plex that backed up to the properties of Mr. Ni and Mr. Kwok. Pradeep had indicated that he liked the current configuration.*  
**Chairperson Pentaleri** understood that his concern was about the placement of windows on the third floor.  
*He agreed to review the plans. The location of egress windows in those bedrooms needed to be taken into consideration. He had also agreed to work with the resident about species and location of the trees that would be screening the properties.*
- **Commissioner Bonaccorsi** asked if he was amenable to changing the condition to explicitly include Pradeep's property as part of the ongoing discussions.  
*He agreed to work with Pradeep about window location, although his property abutted a different part of the project.*
- **Vice Chairperson Jones** asked if Mr. Kwok (sic – Shum) was immediately north of Mr. Ni, at 35045. Did Pradeep's house back up to Lot No. 7?  
*Mr. Ni answered, "Yes."*

**Chairperson Pentaleri** closed the Public Hearing and called a recess for the stenographer at 8:21 p.m.

**Chairperson Pentaleri** called the meeting back to order at 8:35 p.m.

The Commissioners asked staff the following questions:

- **Commissioner Bonaccorsi** asked staff to explain the deviation from the Multifamily Design Guidelines regarding the interior site setback of five feet, which did not comply with the Guidelines.  
*Associate Planner Kowalski stated that the five-foot setback was five feet less than the R-3 minimum. The reductions along the two exterior property lines would enable the applicant to provide room for large canopy trees along one side of the main private street that would bisect the development and the opposite side of the street would have a full-sized sidewalk.*
- He suggested that future staff reports might provide setoffs on the deviations that would visually show the exceptions and trade-offs.  
*Principal Planner Morris directed his attention to page L-1.1, which showed the proposed common areas.*

*Associate Planner Kowalski added that Sheet PD-2, Exhibit C, showed the meandering walkway.*

- What was staff's rationale for supporting these deviations?  
*With irregular shaped lots, more flexibility was needed, because it became harder for the developers to get more housing units and more affordable starter homes to fit into these lots.*
- **Commissioner Dorsey** asked for background on the other projects that had been proposed in the past for this space.  
*Associate Planner Kowalski replied that only a Preliminary Planned District had been approved in 2007, which did not require the developer to submit a full set of plans, as was before the Commission tonight. Page TM-1 showed another approved subdivision from developer Makkar in the left-hand corner next to Lot 8. Neither project had ever come to fruition.*
- What was the height difference of the buildings on Lots 7 and 8 and the homes directly behind them?  
*Two-story homes were generally about 25 feet at the ridgeline; whereas, these homes would be 10 to 12 feet taller.*
- Looking at the plans, she could see "tons of windows" in the front and the back, which would be facing one of the existing homes, even though a large tree would be there for screening. Therefore, she did not see the feasibility of making the third-floor windows smaller. She appreciated the plan for a taller wall, as she had similar safety concerns about her own home. Parking was another concern. She had noticed another similar development in Ardenwood and the parking was not adequate for any type of function a homeowner might wish to have. This plan provided for only 18 additional parking spaces with no driveways available for parking.

**Principal Planner Morris** pointed out that the current plans showed a six-foot high, solid board fence with nothing in the conditions that required a ten-foot high, solid masonry wall. Staff would not recommend such a wall, which did not contribute to the community feeling. They might agree to an eight-foot high, solid board fence, though.

**Commissioner Bonaccorsi** stated that he would like to amend the Condition to extend the scope of work with the neighboring property owners to include not only Lot 8 but Lot 7 and add Pradeep's address, which was 35025 Armour Way.

**Chairperson Pentaleri** recalled expressing concern about the flexibility afforded for items like interior setbacks when the Design Guidelines were approved last year, which would encourage development of the small lots within the City. He was very impressed that the Applicant had worked in very good faith and with sensitivity to the preservation of the historic resource within a very constrained site. The Applicant could not have done more. He shared concerns about the installations of a masonry wall and he would support staff's recommendation.

**Commissioner Bonaccorsi** stated that his motion included the Condition of Approval on the Gold Sheet with the additional amendment that would include the property at 35025 Armour Way and the design of the buildings on both Lot 7 and Lot 8.

**Deputy City Attorney Rasiah** clarified that the Gold Sheet Condition referred to the stepping back of the third story. Did **Commissioner Bonaccorsi's** amendment referred to Lot 7 and placement of windows and landscaping?

**Commissioner Bonaccorsi** read: "The Applicant shall attempt to eliminate windows on the third story facing this property line." By adding the address of 35025 Armour Way in the second to last sentence, it would encompass that issue. The first sentence shall read: "The Applicant shall work with the neighboring property owners on the design of the building on Lots 7 and 8. . . The building will have a first and second floor minimum ten-foot building setback from the property line shared with the adjacent property owners, properties located at 35045 and 35065 Armour Way." The third sentence should say: "The Applicant shall attempt to eliminate windows on the third story facing this property line at 35045, 35065 and 35025 Armour Way."

Regarding Mr. Cavette's request about the use of the Consent Calendar, **Chairperson Pentaleri** remarked that the Commissioners had a staff report and tried to be respectful of everyone's time. The Consent Calendar provided the opportunity for the Commission to conduct an efficient meeting. If Commissioners felt the need to discuss something amongst themselves, they had the freedom to remove those items from the Consent Calendar, as did the public.

IT WAS MOVED (BONACCORSI/REED) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL:

ADOPT THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM FOR THE PROJECT AS SHOWN IN EXHIBIT "A," AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN, INCLUDING THE DESIGNATED GOALS AND POLICES SET FORTH IN THE LAND USE, HOUSING, MOBILITY, AND COMMUNITY CHARACTER ELEMENTS OF THE GENERAL PLAN AS ENUMERATED IN THE STAFF REPORT;

AND

FIND THAT THE PROJECT PLANS FOR PRELIMINARY AND PRECISE PLANNED DISTRICT P-2014-99 AS SHOWN IN EXHIBIT "C" FULFILL THE

APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

FIND THAT THE PROPOSED SUBDIVISION AND PRIVATE STREETS AS SHOWN IN EXHIBIT “C” ARE CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE CITY OF FREMONT’S GENERAL PLAN. GOVERNMENT CODE SECTION 66474 AND FMC SECTION 17.20.200 PROVIDE THAT A TENTATIVE MAP APPLICATION MUST BE DENIED IF CERTAIN SPECIFIED FINDINGS ARE MADE. NONE OF THOSE FINDINGS CAN BE MADE IN THIS INSTANCE AS SET FORTH IN THIS REPORT AND EXHIBIT “D;”

AND

INTRODUCE AN ORDINANCE ADOPTING PRELIMINARY AND PRECISE PLANNED DISTRICT P-2014-99 AS SHOWN IN EXHIBIT “B” AND EXHIBIT “C,” BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT “D;”

AND

APPROVE TENTATIVE TRACT MAP NO. 8162 AND THE PRIVATE STREETS AS SHOWN IN EXHIBIT “C,” BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT “D;”

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR EIGHT PRIVATE, PROTECTED TREES, PURSUANT TO THE REQUIREMENTS OF THE TREE PRESERVATION ORDINANCE;

AND

DIRECT STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCE.

The motion carried by the following vote:

|          |  |
|----------|--|
| AYES:    | 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Pentaleri, Reed |
| NOES:    | 0  |
| ABSTAIN: | 0  |
| ABSENT:  | 1 – Leung  |
| RECUSE:  | 0  |

**Chairperson Pentaleri** announced that **Commissioner Bonaccorsi** had requested that Item No. 8 be heard at this time, because he was going to recuse himself on Item No. 7. The Commissioners agreed to move onto Item No. 8

Item 8. **DOWNTOWN DISTRICT AMENDMENT - Downtown District - (PLN2014-00222)** - To consider a Zoning Text Amendment to Fremont Municipal Code Title 18, Chapter 18.47, Section 18.47.080 to allow for reduced residential densities for certain catalyst projects within specified portions of the Downtown Community Plan Area. A Supplemental Environmental Impact Report (SEIR) was previously certified for the implementation of this project and no further environmental review is required.



**Principal Planner Morris** introduced Downtown Project Manager Jessica von Borck, who was available to answer questions. He explained that this amendment would allow a reduction in density in the primary development area, bounded by the extension of Capital Avenue, Fremont Boulevard and State Street. Those projects would come back to the Commission if a reduction in density occurred and for design review.

**Chairperson Pentaleri** stated that the email response from staff regarding his question had stated that, effectively, the lowest density that would be approved would be 30 units per acre. Was that true?

**Principal Planner Morris** stated that he was correct. Staff would not have recommended anything less than 30 units.

**Chairperson Pentaleri** opened and closed the Public Hearing.

IT WAS MOVED (BONACCORSI/JONES) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THE PLANNING COMMISSION – RECOMMEND THAT THE CITY COUNCIL FIND THAT, BASED ON ITS INDEPENDENT JUDGMENT, THE PROPOSED ZONING TEXT AMENDMENT IS WITHIN THE SCOPE OF THE ENVIRONMENTAL IMPACTS PREVIOUSLY ANALYZED FOR THE RECENTLY ADOPTED DOWNTOWN COMMUNITY PLAN AND DESIGN GUIDELINES FOR WHICH A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (EIR) SCH#2010072001 WAS PREVIOUSLY CERTIFIED, AND THAT NONE OF THE CONDITIONS REQUIRING A NEW SUBSEQUENT OR SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT STATED IN SECTION 21166 OF THE PUBLIC RESOURCES CODE OR IN SECTIONS 15162 AND 15163 OF THE CEQA GUIDELINES ARE PRESENT;

AND

FIND THAT THE ORDINANCE AMENDING FREMONT MUNICIPAL CODE (FMC) TITLE 18, CHAPTER 18.47 (DOWNTOWN DISTRICT), SECTION 18.47.080 TO ALLOW FOR REDUCED RESIDENTIAL DENSITIES FOR CERTAIN CATALYST PROJECTS WITHIN SPECIFIED PORTIONS OF THE DOWNTOWN COMMUNITY PLAN (DCP) AREA IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, OBJECTIVES AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND COMMUNITY CHARACTER ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF THE ORDINANCE IN ORDER TO AMEND CERTAIN DEVELOPMENT STANDARDS OF THE D DISTRICT BECAUSE THE CITY OF FREMONT RECOGNIZES THE BENEFITS, BOTH SOCIALLY AND ECONOMICALLY, IN CREATING A VIBRANT URBAN ENVIRONMENT THAT CREATES A SENSE OF PLACE WITHIN THE CITY CENTER, WHERE

RESIDENTS, EMPLOYERS AND VISITORS WANT TO BE AND THAT, FURTHERMORE, THESE ACTIONS IMPLEMENT THE CITY'S GENERAL PLAN VISION OF CREATING A SUSTAINABLE, STRATEGICALLY URBAN, MODERN CITY;

AND

RECOMMEND THAT THE CITY COUNCIL WAIVE FULL READING AND INTRODUCE AN ORDINANCE AMENDING FREMONT MUNICIPAL CODE (FMC) TITLE 18, CHAPTER 18.47 (DOWNTOWN DISTRICT), SECTION 18.47.080 TO ALLOW FOR REDUCED RESIDENTIAL DENSITIES FOR CERTAIN CATALYST PROJECTS WITHIN SPECIFIED PORTIONS OF THE DOWNTOWN COMMUNITY PLAN (DCP) AREA, AS SHOWN IN EXHIBIT "A."

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Pentaleri, Reed

NOES: 0

ABSTAIN: 0

ABSENT: 1 - Leung

RECUSE: 0

- Item 7. **LAGUNA COMMONS - 41126 and 41152 Fremont Boulevard - (PLN2013-00267)** - To consider a General Plan Amendment to change the land use designation of a 1.49-acre site from Commercial-General, Residential-Medium Density, 14.6-29.9 units per acre and Open Space - Resource Conservation/Public to Residential-Urban 30-70 units per acre and Open Space - Resource Conservation/Public, and a Rezoning from C-C(I), Community Commercial with Irvington and Transit-Oriented Development Overlay Districts and R-G-29, Garden Apartment Residence District to Preliminary and Precise Planned District P-2013-267(I) to allow the construction of a 64-unit affordable/supportive housing development, and to consider adoption of a Mitigated Negative Declaration and Finding of No Significant Impact prepared for the proposed project pursuant to the requirements of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA).

#### **NOTES/CORRECTIONS:**

Staff requests that the following correction be included in the Staff Report Attachments:

Informational 1 – Joint CEQA Initial Study/NEPA Environmental Assessment:  
Mitigation Measure HZ-2 listed in the Mitigation Monitoring Program included in Exhibit "A" is hereby amended to read as follows, with new text shown as underlined and deleted text shown as ~~struck out~~:

"In the event that contaminants from the adjacent site across Laguna Creek have migrated or are found to affect the subject property, the applicant shall work with

Alameda County Water District (ACWD) to develop a detailed remediation plan, subject to the review and approval of ACWD and any other regulatory agencies with jurisdiction over the remediation plan and using approved methods in accordance with all applicable federal, state, and local regulations.”

**Commissioner Bonaccorsi** stated that he would recuse himself from this item, because he served on the Board of Directors for this project’s sponsor.

**Associate Planner Kowalski** noted the Gold Sheet change, above. He also noted that the Informational 1 document was over 500 pages long, so staff had provided a page that gave a link to the website where it could be found. However, the link was incorrect; it was to an old version of that document, so that link would be corrected before this item was forwarded to City Council.

**Deputy City Attorney Rasiah** added that the actual differences between the revised joint CEQA/NEPA document and the older version (about ten pages) had been handed out to the Commission and made available to the public.

**Associate Planner Kowalski** stated that this General Plan Amendment would involve the demolition of the existing structures at 41126 and 41152 Fremont Boulevard and the construction of a new four-story, 64-unit, affordable, supportive housing development on the site. A small portion of the site at the rear contained a flood control channel and was currently designated as Open Space – Resource Conservation/Public and would not be affected by this proposed project.

The existing home at 41126 Fremont Boulevard had been built in 1939 and had always been occupied as a residence. The home at 41152 Fremont Boulevard had been built in 1955 and had served as a home for the family who owned and operated Walt’s Mission Pass Towing Company on the property. The Applicant purchased both properties in 2011 and now leased both homes to low income families. The towing operation had ceased upon the purchase of the properties by the Applicant. On June 12, 2012, City Council had directed staff to negotiate loan terms with the Applicant to support the acquisition of the subject property and to make available In-Lieu fees paid by developers of market rate properties throughout the City, as well as, the proceeds from the redistribution of the former Redevelopment Agency (RDA) affordable housing funds. On September 18, 2012, Council approved a loan to the Applicant for just under \$3 million for acquisition of the subject property to enable the project to proceed.

The unit mix would consist of 20 studio apartments, 21 one-bedroom units, 12 two-bedroom units and 11 three-bedroom units. Approximately half of the units would be reserved for very-low-income households with incomes no greater than 50 percent of the area median income, while the remainder would be reserved for extremely-low-income households with incomes no greater than 30 percent of the area median income and who may have special needs or may be at the risk of homelessness, such as veterans or persons with mental health disabilities. On-site social services would

be available five days per week and include case management, financial planning, parenting training and job counseling and placement services. Shared laundry facilities would be available, along with the property manager's office, computer lab, individual storage spaces for each unit and a community lounge.

The building would be adjacent to the Fremont Boulevard sidewalk while the parking lot would wrap around the southern and eastern sides of the building. Parking would be accessed from a single driveway from Fremont Boulevard. A large outdoor courtyard would be located in the middle of the building which would contain a play structure, a half basketball court, outdoor seating areas and two large existing redwood trees. One large oak at the rear of the property and three palm trees on the Fremont Boulevard sidewalk would also be preserved. Five trees would be removed. All new trees would be planted around the perimeter of the property and the building, as well as throughout the parking lot.

At least four Planning Commissioners must vote to approve staff's recommendation for approval to City Council.

**Deputy City Attorney Rasiah** added that the Applicant was willing to proceed with five Commissioners in attendance.

**Chairperson Pentaleri** asked what was the amount of In-Lieu fees and redistribution of RDA funds that were committed by the City for this project.

**Associate Planner Kowalski** replied that he was aware of just under \$3 million.

**Deputy Director Schoenholz** stated that about \$2 million of that was In-Lieu fees.

**Chairperson Pentaleri** opened the Public Hearing.

**Vivian Wan**, Associate Director of Abode Services and Allied Housing, stated that they, along with Mid-Pen, had already developed two successful supportive housing developments in Fremont, which were built upon Mid-Pen's successful property management and development team and Abode's services and commitment to the community to end homelessness and to provide housing for very-low-income people in Fremont. She stated that she lived and worked in the City and her children went to school in the City. This would be their third development and it would be located in the Irvington District. The need for affordable housing far outstripped the capacity. For example, the last development had 2,300 applicants for 63 units. About half of the population to be served would be extremely-low-income people, most of whom were expected to veterans.

This location had been chosen a few years ago for a variety of reasons: It would be a transit-oriented development that would be close to the future Irvington BART station; very near amenities, and for approximately every local dollar spent, approximately eight dollars would come from the Federal government.

**Richard Stacy**, architect, saw Laguna Commons as a bridge between central Irvington's past and its future. Some reminiscent design features included a row building, visual rhythm, double-hung residential windows, porches, awnings, lapwood siding and large store-front windows. Other design features, as called for in the Design Guidelines, would be higher density, four stories, a strong street wall along a major urban corridor and hidden parking. The overall configuration was in response to an irregular site that contained two mature redwood trees in a sunny and green central courtyard as a focal point. Parking in the rear was planned, per the Design Guidelines, and would be largely hidden from the street. The ground floor would accommodate three wings with the western wing housing the administrative spaces and common areas that included a community room. The lobby, bike parking, offices and the community room would line Fremont Boulevard, which would be an active street wall, per the Design Guidelines, and include how it would hold the street wall, its smaller scale building rhythm, its top horizontal roof line, its distinctive base level with large storefront windows and its variety of building materials.

The recessed balconies would help to define each apartment; the colorful projecting railings and central window groupings would reinforce the building rhythm; a mixture of siding types and paint colors would further provide variety and scale; Awnings would provide visual interest and detail and natural red slate tile would be incorporated into the building base for scale and texture at the pedestrian level.

**Ms. Wan** stated that approval would allow them to move forward towards the financing package with the Federal government.

**Teresa Dias**, Newark resident, stated that she was a board member of Allied Housing, the local nonprofit partner, and she was a former City of Newark Planning Commissioner. Allied and Mid-Pen Housing were the best vehicle to meet the affordable housing need. These homes would be provided to the most vulnerable members of the community, including veterans and folks with special needs. As an architect, she saw this project as a cutting edge example of Bay Area multi-family design. The density would be consistent with the overlay plans that had already been approved. This project would be "the first stake in the ground of the Irvington transit-oriented development and the future BART station" with all of the coming changes.

**Steve Smith**, Vice President Irvington Business Association (IBA), stated that he was an Irvington business owner and resident. Every existing building on that block was a one-story building with a setback from the sidewalk with the recently renovated Irvington Pet Hospital and Dr. Louie's dental office having eye-catching, beautifully maintained landscaping. This four-story building would have a one-foot setback from the sidewalk. The three existing palm trees would look like three poles at street level. When driving southbound, the building would obstruct the line of sight for businesses to the south and similarly obstruct the line of sight when driving northbound. An example of what he believed the General Plan had in mind was Connolly's. It was a three-story building, but it was setback and did not look as dense, as was Cottonwood

on Peralta Boulevard with trees and plants in its setback that aesthetically enhanced the streetscape. It had 98 units with 103 parking spaces.

**Commissioner Reed** asked the speaker to finish his comments, since he needed to exceed his allotted three minutes.

**Mr. Smith** continued with the belief that increased parking would be needed. He wondered why a traffic study had not been performed and suspected that this project would have a socio-economic impact, which would trigger an EIR.

**Chairperson Pentaleri** asked what the speaker's role in the IBA was. Why had he had a couple of days to study this project? Had the Applicant reached out to the IBA and the Irvington community about this project?

**Mr. Smith** replied that he was the Vice President of the IBA. He had learned of it during the General Meeting on Tuesday. He acknowledged that a sign was on the property, but it was behind the fence and it could not be read while driving by. To his knowledge, it had not been brought to the IBA at all.

**Frank James**, Irvington Business Association member and volunteer with Tri-Cities Volunteers, feared the children who would be living in this development would not be safe because of the Fremont Boulevard traffic, especially, with the building located right up to the sidewalk. City properties located on Peralta and Dusterberry would be a better location. The administrators of Tri-Cities Volunteers would welcome them and facilities, such as a food bank, a substance and abuse program, on-the-job training, and a thrift store were already available. This kind of development should also have a daycare and Head Start program onsite, so that the children's education was not put on hold during a parent's transitional period.

**Deborah Rue**, DVM, stated that she had owned Irvington Pet Hospital for 24 years. Her concern was parking. Her business had an easement agreement with La Casitas restaurant for parking. Currently, a no stopping zone was in front of the Irvington Pet Hospital and in front of the La Casitas parking lot. The average vehicle speed at that location was over 40 MPH and the no stopping zone allowed a safe egress from the La Casitas parking lot and from Walt's Tow Yard. The two no stopping spaces were consistently being used for parking and there had been no enforcement, so a petition of 500 signatures had been sent to the City traffic engineers in 2009. There was still no enforcement.

She had heard the argument that these tenants would not all have vehicles, but with 23 of the units being two or three bedrooms, a high potential existed that there would be more than 58 vehicles needing to use the parking lot. There was no parking available on Fremont Boulevard. How would this parking accommodate employees onsite five days a week? Where would the residents' friends and families park? If Abode's predictions concerning parking were wrong, there was no bailout area.

**Commissioner Reed** asked the speaker to finish her comments, since she had exceeded her allotted three minutes.

**Ms. Rue** continued that she were worried that parking overflow would end up in her and La Casitas' parking lots. She knew that enforcement could not be expected on Fremont Boulevard. This project should have a reduction in density, so the parking would be adequate or it should move to another location.

**Ted Rue, DVM**, co-owner of Irvington Veterinary Hospital with his wife, Deborah Rue, stated that they had moved from their original location in the Safeway shopping center in 2006. They had been turned down by the City regarding the use of 14 properties, because pet hospitals were considered stinky, smelly, noisy and not suitable for residential areas. This location was finally approved, because they would be between a parking lot and a tow yard. And now a 64-unit residential project was being proposed right next door. This project would be inconsistent with the General Plan and its Commercial designation for this area. He believed that residential could work on the proposed lot, but not with the building being so close to his pet hospital. He could not guarantee that the dogs in their indoor kennels would not start barking when a La Casitas patron gets into his/her car at midnight and closed the car door. How would the noise concerns for this project's residents be mitigated? He needed assurances that, at a later date, the residents of this complex would not be able to make demands that could adversely affect their business because of barking dogs.

**Jesse Schaa**, President Irvington Business Association, stated that he was born and raised in Irvington and was a local business owner. The IBA always was concerned when zoning was changed from Commercial to Residential. Commercial property was never regained. The IBA was very concerned that they had not heard of this project until Tuesday. Other developers had always notified the IBA of their projects and made presentations to the IBA. The surrounding neighbors had also expressed concern about the lack of communication with Abode. They had the same concerns about the streetscaping, skyline, a four-story building in the one-story heart of Irvington, the impact of possible crime and to the local schools, and property values that were tied to the schools' ratings. In his opinion, Abode had always done an excellent job and the IBA members wanted to work with them on a project that everyone would be happy with. He expressed concern about these types of projects that seem to be locating in Irvington.

**Chris Cavette** stated that he and his wife had objected to specific points in this project very early in the review process last summer and no changes had occurred. They were opposed to this project for three reasons: 1) The building was too tall and it would tower over the nearby one- and two-story buildings; 2) The stark institutional architecture was not compatible with the character of the Irvington Five Corners historic district located just one block away; it looked like a hospital; he suggested visiting the attractive two-story Bridgeway development on Bay Street to see what a change of architecture could produce; and 3) Most important, this building would be in the wrong place, which had been designated for Commercial use. This was a business district and it should stay that way.

**Chairperson Pentaleri** asked what the venue was and to whom had he provided feedback last summer. How had this project come to their attention? Were they notified?

**Mr. Cavette** replied that he had sent an email to the planner in the Planning Department. He had attended the first community meeting. He had arrived early, and was the only person there, so he was given undivided attention.

**Ms. Wan** stated that she and the Director of Properties and Assets, Jon White, had personally met with the President of the IBA before they talked with anyone else. They did all of the required public noticing and flyers were sent to every business within a 300 foot radius. On July 17<sup>th</sup> a public open house was held to talk about it at Bridgeway. An invitation was even sent to the IBA, via email, to invite them to the open house. All of the Board members canvassed door-to-door in the residential areas around the site on a weekend morning asking for questions.

**Jan Lindenthal**, Vice President Real Estate Development with Mid-Pen Housing, stated that they were co-developers with Abode and would be responsible for the property management. As developers/owners, they had no interest in not providing enough parking, as it could be a problem for them and the neighbors. Based on their experience directly related to the operation of Main Street Village, which was a similar number of units and had a similar unit mix, it saw an average of 39 vehicles for the 64 units. Since the project opened, between 35 to 45 cars were there during the day for the 64 units. The number of spaces planned on this site was very appropriate and consistent with their past experience managing similar properties.

**Chairperson Pentaleri** asked if she was counting the onsite parking in that number.

**Ms. Lindenthal** said that was the number of onsite parking that was being used by the residents. Many empty parking spaces could be seen onsite.

**Mr. Stacy** stated that the City had criteria for the treatment of exterior walls and windows to prevent street noise and other environmental noise from disturbing residents. The City of Fremont had a little higher level standard than he had seen in other communities. The acoustical consultant had evaluated the site and had taken measurements to determine peak noise levels, special window ratings had to be met and the exterior wall of the building would be augmented to help with acoustical penetration into the building.

**Ms. Wan** added that a preliminary traffic study had been performed and it had determined that the traffic impact would not be enough to warrant a full traffic study.



The Commissioners asked the following:

- **Commissioner Reed** asked why the setback was only one foot, whereas, the Irvington Pet Hospital had a ten-foot setback. The Irvington Pet Hospital's visibility from people traveling south was also expected to be compromised.  
*Mr. Stacy* stated that the plans showed a public utility easement that varied five to six feet that would enlarge the paved area and the useable area in front of the building.
- What did he think was the square footage of the setback?  
*He offered to do a quick calculation and get back to him. It would be the length of the building frontage times the easement of five or six feet measured from the sidewalk.*  
*Jon White, Abode Services, stated that the building setback was at the edge of the right-of-way. The City was requiring a public easement on top of a one-foot right-of-way to meet their ideal street section. They had been directed by staff to have a strong commercial presence at zero-foot setback in response to the Irvington Concept Plan and the Design Guidelines as part of the design of the new urban landscape as envisioned by the General Plan.*
- Had Peralta and other areas been considered to avoid the need to change zoning?  
*This proposal was in response to a Redevelopment Agency request for a proposal. A few years previous, a study had been performed to determine which sites within the City would be feasible for an affordable housing development. This was one of the top sites on the list. It was eventually considered when it became available for sale. The sites in Peralta and Centerville, etc., would have been more complicated, as they were not for sale. By right under current zoning, a development that involved housing over ground-floor commercial would be allowed, which was the intent of the design. The ground-floor commercial look was in line with the rest of the neighborhood, the community and the commercial feel of Fremont Boulevard. The only difference in the ground-floor commercial portion of the development was that they would be used as the company's offices instead of renting the units out to others.*
- What about the sound concern? What about when a car door slammed and the dogs barked?  
*Mr. Stacy* replied that the treatments planned for the building were according to the City's noise ordinance requirements and were to mitigate the noise for the building's occupants. By the way, the easement (discussed earlier) would be about 500 square feet, about five feet deep by 100 feet long.

**Chairperson Pentaleri** called a recess for the stenographer at 9:55 p.m.

**Chairperson Pentaleri** reconvened the meeting at 10:05 p.m.

- **Commissioner Dorsey** asked if conversations had been held with any member of the school board or with Superintendent Morris. The local school was extremely small and Horner and Irvington were already impacted. Sometimes children must

be bussed elsewhere, which impacted the family, especially if the child was ill and the parent had to pick him/her up.

*Mr. White said that about two years ago they had reached out to the school board. At that point, they were told the expected number of children living in this development could be accommodated by the local schools.*

- Things had changed and, with the passage of Proposition 30, the class size had been lowered.

*Ms. Wan agreed to go back to the school board to work with them about the children.*

- Was there was a plan to offer pre-school or daycare onsite?

*Her company had a long-standing relationship with Kidango, which prioritized the status of the children that her organization served, and they had child services all across the City of Fremont. Providing daycare onsite would not be practical, if for any other reason because of the amount of available parking and the traffic impact. As part of the service package, they made certain that parents had the resources that they needed and to make sure their children were enrolled in school. Developmental screenings were performed for every child, ages 0 to 5. If they were not up to expectations, appropriate resources were made available to the parents.*

- Do any of the other projects have that built in?

*No, none of the Abode facilities have a childcare center onsite. At the emergency shelters, a space next door to Kidango was leased for a child care center.*

*Deputy City Attorney Rasiah noted that, regarding the impact on schools, State law SB-50 required that the developer was only responsible to pay the school impact fees and the project could not be denied or conditioned based upon the impact to schools.*

*Jan Lindenthal added that Mid-Pen had child care available in three of their facilities. When developments first opened, the child care accommodated many of the children. However, as the children aged, they aged out of the child care center and it became more of a center that served the broader community, which had to be part of the original planning. It made more sense to partner with existing facilities.*

- **Vice Chairperson Jones** asked if this development would accommodate service needs for transitional residents or was it a more traditional permanent housing solution.

*This would be permanent supportive housing. People would be allowed to live here as long as they wished, even if their income increased.*

- Would it be an issue if a condition was made to set the project back a little, so that it would be in line with the existing nearby structures?

*Mr. Stacy stated that the current site plan was highly efficient. Setting the building back would impact the parking without shrinking the project's size. The building had been carefully designed around the redwood trees and they could not be moved.*

- Had any outreach been made to any of the neighboring businesses to accommodate any overflow?

*Ms. Lindenthal* replied that they had reached out to those businesses, but they were not interested in providing shared parking. However, the parking would be the exactly the same ratio as was provided at Main Street Village, which had extra parking.

- **Commissioner Karipineni** asked what the qualitative reasons were that made this project a good fit for this particular geographic location. She understood the importance of a transit-oriented neighborhood and walking distance to certain amenities.

*Ms. Wan* said that the same reasons that made this location score well, and would attract Federal funding, were the same reasons that would made it a good development, particularly for low-income folks. The grocery store and pharmacy were literally up the street and public parks helped to create a community at one's fingertips up the street.

*Ms. Lindenthal* added that the former use of this site was a tow yard, so it would be revitalized and the development would jumpstart the City's vision for the Irvington area.

- **Chairperson Pentaleri** asked about the average parking used at one of their other facilities.

*Ms. Lindenthal* stated, again, that 59 spaces were available for 64 units at Main Street Village, but the actual number of residents that parked onsite was 39.

- However, that parking was gated and all of the on-street parking was used there and no on-street parking would be available with this project. He questioned the accuracy of the parking tally, because he suspected that the on-street parking associated with the Main Street Village was not being taken into account and Laguna Commons would not have on-street parking available.

*A number of commercial businesses were in the vicinity of Main Street Village and she believed that they were using the on-street parking.*

*Mr. Smith* stated that much of the street parking was taken up by the patrons and staff of Tri-City Health Center's satellite health clinic and an Abode service outreach center staff. Every resident was offered a parking remote control to allow access to the garage and 39 residents had registered their vehicles. The two staffs also used the garage and no problems had ever occurred.

- He recalled discussing the ground-floor use with Mr. Smith a few months ago and the fact that it would not be leased to anyone.

*The ground floor wing on Fremont Boulevard would all be used for the community. Offices would be available for service coordinators and property management. The community room, a computer lab, bike storage, maintenance facilities and elevator would all be located there.*

*Ms. Wan* added that the number was not the amount of cars using parking, but the number of vehicles that were registered by the residents. All of their facilities had the same parking ratios and residents. Extremely-low-income people with special needs did not have as many cars. It had never been an issue in any of their supportive housing projects.

- He believed that the aesthetics were not up to the quality seen at Main Street Village and Bridgeway. What “tweaks” had been made to address the concerns that he had expressed a few months ago?

*Mr. White recalled speaking with him after a community meeting in July and they had gone through many iterations with Planning staff regarding some of the material choices and tying them back to Irvington: How to get the commercial look with the storefront windows, the slate on the bottom to tie into the existing brick look, the building massing and the change to the roof line had all significantly changed the look of the building.*

- Seen in Main Street Village, but not seen here, were the trellises that added a little bit of green color and texture right against the sidewalk. He encouraged the Applicant to consider doing the same with this project.

**Chairperson Pentaleri** closed the Public Hearing.

**Commissioner Reed** stated that one took one’s life in hand when attempting to exit the La Casitas parking lot, because one had to drive right out into the street before knowing if it was safe to turn. What enforcement was being done with the no stopping zone?

**Principal Planner Morris** promised to take it back to staff for discussion.

**Chairperson Pentaleri** asked the following questions:

- Not fully addressed were the traffic concerns with one large building on one side of the entrances to the adjacent businesses and the no stopping zones. He hated that the catalyst for enforcement of the no stopping zones might be “ugly, gory, scenes of dead people caused by people trying to nose out into traffic unable to see oncoming traffic.”

*Principal Planner Morris commented that in any urban area, there would be times that nosing out into the street was necessary because of the buildings.*

*Planning Manager Wheeler suggested that the Police Department could be asked if they have had enforcement issues and if they have received calls about illegally parked vehicles. That information would be supplied to City Council with the Planning Commission’s recommendation.*

- When he met with the Applicant many months ago, the conversation had included the architecture and the overall size and massing right out on the street. A lot of creativity had gone into preserving the trees and to fit so much onto such a small footprint. He wondered about the commercial viability of this site. It was even closer to the Five Corners intersection than he had originally been aware of. The Irvington Concept Plan started out by stating that this area was to be a commercial hub. Had any studies been performed with regard to its possible commercial applications?

*Associate Planner Kowalski stated that the 2007 and 2014 Housing Elements had identified this site as a likely site for conversion to higher density residential. It seemed that the hang-up was that this entailed a General Plan Amendment, but*

*this was also in a Transit-Oriented Overlay that had been established in anticipation of a future BART station. Agreed, who knew when it would be built, but the City's vision for this area was to keep commercial at the Five Corners and to have higher density housing right outside that area with transitions to the existing lower density housing on the side streets off of Fremont Boulevard.*  
**Principal Planner Morris** answered, "No" to the studies question, above.

**Chairperson Pentaleri** believed that Allied Housing and Mid-Peninsula brought top quality projects with top quality management and the City had expressed its willingness to support this inclusive housing. However, he had seen a map of supportive housing in the City, which showed a disproportionate concentration of projects in Irvington and Centerville as compared with other areas of Fremont. It seemed that the In-Lieu fees, from developments that were located throughout the city, were being redistributed from those areas to supportive services developments that were being concentrated in just two areas of the city. He was also concerned about what was happening with the Commercial land use designation. So, for those reasons, he was inclined to not support this project.

**Deputy Director Schoenholz** stated that the policy around the affordable housing In-Lieu fee had been put on place so the City could support projects that involved supportive services. Otherwise, two or three affordable units would have been included within each development, which would not have allowed deeper levels of affordability. In-Lieu fees were the best way to provide all of the needed supported services. This kind of development needed multiple sources of financing, which got into the competitive realm of tax credits, vouchers, and so on. Those decisions were all made on scoring and scoring was all based on proximity to transit and services. The reality was that this kind of project would be built in the priority development areas in the City, such as Irvington, Centerville and now Warm Springs and the Downtown.

IT WAS MOVED (REED) AND FAILED, BECAUSE NO SECOND WAS MADE

**Deputy City Attorney Rasiah** affirmed that the motion had failed. He announced that this decision could be appealed to City Council within five calendar days of this date.

THAT THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL:

ADOPT THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AND A FINDING OF NO SIGNIFICANT IMPACT IN ACCORDANCE WITH THE REQUIREMENTS OF CEQA AND NEPA RESPECTIVELY, AS SHOWN ON EXHIBIT "A" AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON

THE ENVIRONMENT AND THAT THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT AND ANALYSIS OF THE CITY OF FREMONT;

AND

FIND AND DETERMINE THAT THE GENERAL PLAN AMENDMENT CONFORMS WITH AND CONTAINS THE REQUIREMENTS PROVIDED FOR IN THE CITY'S PLANNING PROCESSES, CONSTITUTES A SUITABLE AND LOGICAL CHANGE IN THE PLAN FOR PHYSICAL DEVELOPMENT OF THE CITY OF FREMONT, AND IS IN THE PUBLIC INTEREST, AS DESCRIBED IN THE STAFF REPORT;

AND

FIND THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN, INCLUDING THE DESIGNATED GOALS AND POLICES SET FORTH IN THE LAND USE, MOBILITY AND COMMUNITY PLANS ELEMENTS AS WELL AS THE HOUSING ELEMENT OF THE GENERAL PLAN, AS ENUMERATED IN THE STAFF REPORT;

AND

APPROVE A GENERAL PLAN AMENDMENT CHANGING THE LAND USE DESIGNATION OF THE SITE FROM COMMERCIAL – GENERAL, RESIDENTIAL – MEDIUM 14.6-29.9 UNITS PER ACRE AND OPEN SPACE – RESOURCE CONSERVATION/PUBLIC TO RESIDENTIAL – URBAN AND OPEN SPACE – RESOURCE CONSERVATION/PUBLIC AS SHOWN ON EXHIBIT “B;”

AND

FIND PRELIMINARY AND PRECISE PLANNED DISTRICT P-2013-267(I) AS PER EXHIBIT “D” FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

INTRODUCE AN ORDINANCE APPROVING A REZONING FROM C-C(I), COMMUNITY COMMERCIAL WITH IRVINGTON AND TRANSIT-ORIENTED DEVELOPMENT OVERLAYS DISTRICTS, AND R-G-29, GARDEN APARTMENT RESIDENCE DISTRICT TO PRELIMINARY AND PRECISE PLANNED DISTRICT P-2013-267(I) WITH IRVINGTON AND TRANSIT-ORIENTED DEVELOPMENT OVERLAY DISTRICTS AS SHOWN ON EXHIBIT “C” AND APPROVING THE PRELIMINARY AND PRECISE PLAN AS SHOWN ON EXHIBIT “D,” BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS SET FORTH IN EXHIBIT “E;”

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR FIVE PRIVATE, PROTECTED TREES, PURSUANT TO THE TREE PRESERVATION ORDINANCE AND AS DESCRIBED IN THE STAFF REPORT AND CONDITIONS OF APPROVAL IN EXHIBIT “E;”

AND

DIRECT STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCE.

## DISCUSSION ITEMS

## MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

**Principal Planner Morris** announced that the next Planning Commission meeting would be held on May 8, 2014.

- Report on actions of City Council Regular Meeting

None

- Information from Commission: Commission members may report on matters of interest.

None

Meeting adjourned at 10:45 p.m.

SUBMITTED BY:



Alice Malotte  
Recording Clerk

APPROVED BY:



Wayne Morris, Secretary  
Planning Commission